No. 02-1839

Supreme Court, U.S.
FILED
OCT 3 1 2003
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In The
Supreme Court of the United States

WILLIAM LEE BOWERSOCK,

Petitioner,

v.

JOYCE A. BOWERSOCK,

Respondent.

On Petition For Writ Of Certiorari
To The Supreme Court of Ohio

PETITION FOR REHEARING

WILLIAM LEE BOWERSOCK, pro se
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6 pp

INTRODUCTION

The decision of the Supreme Court of Ohio should never be allowed to stand on, because it is contrary to the Ohio law. Petitioner's Petition for Writ Certiorari demonstrates why the Petition should be granted , because it accurately identifies the crucial issues and illustrates the confusion surrounding the proper standard of review. Because of this confusion in the applicable standard, this Court once should directly address a rehearing. It is intolerably objectionable to allow orders of Supreme Court of Ohio and lower courts herein to stand.

REASONS FOR GRANTING THE REHEARING

There is law which supports reason for rehearing and for granting the writ. In Vanderpool versus Vanderpool, the one trial court's division of marital property and debt and its award of spousal support constituted arbitrary abuse of discretion where trial court failed to indicate factual basis for its award in its judgment entry and there was lack of evidence in the record supporting the conclusion that trial court considered mandatory statutory factors. Cite as (1997), Ohio App.3d 876. While the trial court retains its ability to enforce its division of marital property, the trial court may reserve the right to modify the order. The trial court never took to exercise its option in Bowersock herein even though it would have been proper at law of Ohio to have done so.

Further at law in support,in Schiavone there were procedural issues without a resolve by trial court in division of marital property. Cite as (1998) 126 Ohio App.3d 780.
Also, in Hoyt retirement benefits are factors to consider in award. When considering a fair and equitable distribution of pension or retirement benefits in a divorce, the trial court must apply its discretion based on (1) the circumstances of the case; (2) the status of the parties; (3) the nature terms and conditions of the pension or retirement plan; and (4) reasonableness of the result. Cite as (1990), 53 Ohio St.3d 177.
Also, in Holcomb and most important to consider for the case of Bowersock, a vested pension plan accumulated during marriage is a marital asset and must be considered in conjunction with other relevant factors in dividing marital assets listed under 3105.18 and liabilities to ensure that the result reached is equitable. Cite as (1989), 44 Ohio St.3d 128.
Also, in Diefenthaler, a spouse's pension or retirement plan , to the extent it was accumulated during the marriage is a marital asset subject to division and must be considered in determining a award. Cite as (1989), 63 Ohio App.3d 845.
Also, in Day a trial court's failure to consider whether or not a spouse's pension plan may properly be subject to a "qualified domestic relations order" pursuant to 29 USC 1056 constitutes an abuse of discretion. Cite as (1988), 40 Ohio App.3d 155.

Title 29 of United States Code Section 1056 defines that "domestic relations order means any judgment, decree or order including approval of a property settlement agreement which is made pursuant to a state domestic relations law.
And law most important to the support of Bowersock: in Daniels, a journal entry reflecting a property settlement agreed to at a pre-trial conference is void, as the court has jurisdiction to divide a couple's property only when it grants a divorce, such jurisdiction not encompassing pre-trial conferences. Cite as (1980) Ohio 9th Dist. Ct App. Petitioner claims the law above shall be adequate to support his case. Court should provide such a standard at level most honorable. The acts and omissions by the trial court in preparing here a property settlement agreement amounted to legal malpractice. The judge in the trial court was less than zealous in his professional demeanor..

The petitioner has suffered damages a result of acts and omissions, which evidence in the trial court shows sure as would be necessary in proof of legal malpractice in Bowersock.

CONCLUSION

The Court should grant this petition for rehearing.

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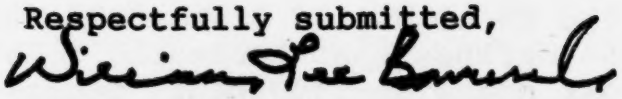
Respectfully submitted,



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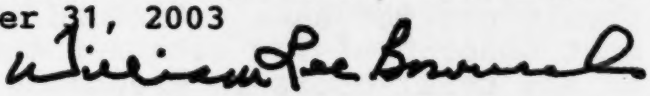
CERTIFICATION OF SERVICE

This is to hereby certify that a copy of the foregoing petition for rehearing has been served upon respondent, Joyce A. Bowersock, pro se by mailing ordinary first class of the United States Postal Service to the address at 1045 Mackenzie Drive in Lima, Ohio 45805-1660 on October 31, 2003



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CERTIFICATE

This is to certify that the petition for rehearing is presented in good faith and not for delay. The grounds of herein petition are to address intervening circumstances of substantial, controlling effect, and other substantial grounds as previously unpresented in the case.

Respectfully submitted,

William Lee Bowersock

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